

**DURHAM, NORTH CAROLINA
MONDAY, MARCH 17, 2003
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Absent: None.

Also present: City Manager Marcia L. Conner, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with the Pledge of Allegiance.

The Mayor asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Conner requested Consent Agenda Item 26 [Proposed Refunding of 1992, 1993, and 1995 General Obligation Bonds] be moved to the General Business Agenda and announced that the Hispanic Coffee With Council scheduled for March 19, 2003 will be from 7:00 p.m. – 9:00 p.m.

There were no priority items from the City Attorney and City Clerk.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Items 20 [Architectural Selection for Fire Stations 8 and 16], 41 [Followup to NECD Audit] and 42 [Housing and Community Development Department Reorganization Job Descriptions] were pulled from the Consent Agenda.

Mayor Bell noted that he will be abstaining on Consent Agenda Item 27 [UDI Community Development Corporation Subrecipient Agreement].

MOTION by Council Member Clement seconded by Council Member Edwards to approve the Consent Agenda as amended was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES - CITY CLERK'S OFFICE

MOTION by Council Member Clement seconded by Council Member Edwards to approve the City Council minutes for the following meetings was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

February 17, 2003 - Regular Meeting and February 18, 2003 – Regular Meeting

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SUBJECT: CITY COUNCIL WORK SESSIONS - CITY CLERK'S OFFICE

MOTION by Council Member Clement seconded by Council Member Edwards to approve City Council action taken at the following Work Sessions was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

December 9, 2002
December 19, 2002
January 9, 2003
January 30, 2003
February 6, 2003
February 20, 2003

SUBJECT: HUMAN RELATIONS COMMISSION – APPOINTMENTS

MOTION by Council Member Clement seconded by Council Member Edwards to appoint the following individuals to the Human Relations Commission was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

James Edward Hill, Jr. - term expires June 30, 2005
Larry Holt - term expires June 30, 2003
Tracy Shea Quinones Hill - term expires June 30, 2003

SUBJECT: FEDERAL AVIATION ADMINISTRATION GRANT OFFER

MOTION by Council Member Clement seconded by Council Member Edwards to accept the Federal Aviation Administration grant offer of \$3,564,848 for Westside Storm Water Management Facilities, RDU 070378, FAA AIP Grant Number 3-37-0056-28; and

To authorize the City Manager to execute the Grant Agreement and to authorize the City Attorney to give assurances with respect thereto; and

To authorize the City Manager and City Attorney to make minor changes to the Grant Agreement was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: COMPENSATORY TIME COMPLIANCE AUDIT

MOTION by Council Member Clement seconded by Council Member Edwards to receive and accept the Compensatory Time Compliance Audit (February 2003) was

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approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: VOLUNTARY ANNEXATION PETITIONS SUBMITTED PRIOR TO JANUARY 3, 2003

MOTION by Council Member Clement seconded by Council Member Edwards to accept the City Clerk's certification of 100% ownership as required by N.C. General Statutes 160A-58 and 160A-31; and

To adopt the resolutions establishing public hearings for April 7, 2003 for the following submitted voluntary annexation petitions was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

1. Windram Veterinary Clinic
2. Abernathy Property
3. Carpenter Pointe – Phase III

Resolution # 8975; 8976; and 8977

SUBJECT: MAJOR SITE PLAN AND PRELIMINARY PLAT APPROVAL - PANTHER CREEK SUBDIVISION, PHASES I & II

MOTION by Council Member Clement seconded by Council Member Edwards to approve a major site plan and preliminary plat for "Panther Creek Subdivision, Phases I, II and III," submitted by R. L. Horvath Associates, Inc., on behalf of Panther Creek of Durham, LLC, for 147 single-family lots on a +/-49.7 acre site zoned PDR 1.69 and F/J-B. The property is located on the east side of Burton Road and south of Cooksbury Road. Tax reference 714-01-031, 032 (partial) and 722-01-002, PIN 0853-04-61-8876 (partial), 0853-04-62-6698 and 0853-04-51-5049(partial). City Atlas Page 20, Block C-3 and C-4 was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN AND PRELIMINARY PLAT FOR CHADSFORD PLACE SUBDIVISION

MOTION by Council Member Clement seconded by Council Member Edwards to approve a major site plan/preliminary plat for "Chadsford Place Subdivision," submitted by Tony M. Tate Landscape Architecture, on behalf of Regions Development, for 63 single-family lots on a +/-22.08 acre site zoned PDR 3.4, R-20 and F/J-B and a request to make payment-in-lieu of dedication of open space. The property is located on the east side of Barbee Road and west of Carpenter Fletcher Road. Tax reference 520-04-004,

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004C and PIN's 0729-04-60-2548 and 0729-04-61-3210. City Atlas Page 43, Block C-3 was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN AND PRELIMINARY PLAT FOR RIDGEFIELD SUBDIVISION, PHASE 6B

MOTION by Council Member Clement seconded by Council Member Edwards to approve a major site plan and preliminary plat for "Ridgefield Subdivision, Phase 6B," submitted by Diehl and Phillips, P.A., on behalf of E. D. Associates, LLC, for 52 single-family lots on a +/-17.16 acre site zoned PDR 2.85 and F/J-B. This includes a request to make payment-in-lieu of dedication of open space. The property is located on the west side of Fletchers Chapel Road and north of Mineral Springs Road and south of Brightwood Lane. Tax reference 671-01-011, 08C and PIN 0852-04-60-2605 (partial) and 0852-04-61-0414 (partial). City Atlas Page 26, Block C-3 was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN - DATA OPERATIONS CENTER (D02-633)

MOTION by Council Member Clement seconded by Council Member Edwards to approve a Major Site Plan for a 49,660 square foot bus maintenance facility with 274 parking spaces on a 20.69 acre site located at the northwest corner of East Geer and Fay Streets was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN - CROWN HONDA (D02-775)

MOTION by Council Member Clement seconded by Council Member Edwards to approve a Major Site Plan submitted by Haden Stanziale for an auto dealership with a 37,238 square foot building and 524 parking spaces on a 8.44 acre site located on the south side of Audubon Lake Drive and east of Highway 751 was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN – NC 55 HEALTH CLUB (D02-607) – KITT CREEK DEVELOPMENT, LLC

MOTION by Council Member Clement seconded by Council Member Edwards to approve a site plan for a proposed one-story, 15,200 square foot health club, with 69 motor vehicle parking spaces and four bicycle parking spaces, on a +13.78 acre site, zoned NC, RD, R-10 and F/J-B, with payment in lieu of sidewalk, due to impending

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widening of NC 55 by NCDOT in 2003 and with 23.2% of the required parking in the floodway fringe based on less than 25% maximum allowed by Ordinance and the justifications provided by the applicant and attached to the staff report was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN – KITT CREEK OFFICE PARK (D02-605)

MOTION by Council Member Clement seconded by Council Member Edwards to approve a site plan for a proposed 15,000 square foot office complex, consisting of two one-story buildings, with 66 motor vehicle parking spaces and eight bicycle parking spaces, on a +10.01 acre site, zoned NC, RD and F/J-B, with payment in lieu of sidewalk, due to impending widening of NC 55 by NCDOT in 2003 and with 23.3% of the required parking in the floodway fringe based on less than 25% maximum allowed by Ordinance and the justifications provided by the applicant and attached to the staff report was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN - GANYARD FARM SUBDIVISION (D02-495)

MOTION by Council Member Clement seconded by Council Member Edwards to approve a major site plan, submitted by The John McAdams Company, Inc., on behalf of Ganyard Farm, LLC, consisting of 123 single-family lots on a 27.5 acre portion of a 89.27 acre tract, zoned PDR 3.1, located on the south side of Wake Forest Highway, east of Lynn Road, and west of Mineral Springs Road. The applicant is requesting payment in lieu of sidewalk for the portion of the site that abuts Lynn Road. (Tax map 596-01-015A,C,D,E) (PIN 0841-04-72-9468,0841-03-92-1314,0841-04-81-7867,0841-19-72-1105), City Atlas: Page 31, Sections D-2 and D-4 was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN – UNIVERSITY VILLAGE (D02-450)

MOTION by Council Member Clement seconded by Council Member Edwards to approve a site plan for a proposed 208 unit apartment complex, consisting of 17 three-story residential buildings, a gymnasium and clubhouse, with 468 motor vehicle parking spaces and 36 bicycle parking spaces, on a +30.669 acre site zoned O&I-2, I-2, R-20 and SC(D) and with the use of the American Tobacco Trail to meet the public sidewalk requirement along Fayetteville Road was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

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SUBJECT: CONTRACTS

MOTION by Council Member Clement seconded by Council Member Edwards to authorize the City Manager to execute the following list of contracts; and

To authorize the City Manager to make changes to the attached list of contracts before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contracts was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Contractor	Contract Description	Department	CT Amount
Triangle Auto Body	Stormwater permit agreement	PW	na
Martin Alexiou Bryson	Supplemental Agreement #5 On-call transportation planning & engineering service	PW	\$ 100,000.00
NCDOT	encroachment agreement	P&R	na
Milton Lewis & Associates	Conduct Grievance Hearing	PW	\$ 3,000.00
Lazaro Contracting	Demolition 310 Carden Lane	Housing	\$ 1,050.00
Hart Brothers Contracting	change order 1	PFM	\$ 1,000.00
McArthurs Construction	Stream Debris cleanup	PW	\$ 5,000.00
Parkwood Volunteer Fire Dept	Supplemental Fire Protection	Fire	\$ 15,000.00
PolyTech	Engineering service-Arts Council Chiller	PFM	\$ 29,500.00
RVM Electric Co	Electrical Renovation Public Service Bldg	PFM	\$ 13,620.00
C H Engineering	Surveying fire station #8	PFM	\$ 3,500.00
Collin Marshall	Official	P&R	\$ 800.00
Wilmon Rogers	Official	P&R	\$ 1,400.00
Carl Neighbors	Official	P&R	\$ 2,500.00
Eric Spencer	Official	P&R	\$ 800.00
Grant Underhill	Official	P&R	\$ 2,500.00
Rebekah Fuerst	Official	P&R	\$ 800.00
Isaiah Linsoln	Official	P&R	\$ 2,500.00
A J. Price	Official	P&R	\$ 2,500.00
Craig Wolfe	Official	P&R	\$ 2,500.00
Jeff Reese	Official	P&R	\$ 1,200.00
Gerald Haskins	Official	P&R	\$ 600.00
Anthony Crutchfield	Official	P&R	\$ 1,200.00
Barbara Robinson	Official	P&R	\$ 800.00
Jesse Brown	Official	P&R	\$ 1,600.00
Michael Tedder	Official	P&R	\$ 1,200.00
Clarence Roberts	Official	P&R	\$ 1,200.00
Paul Conroy	Official	P&R	\$ 800.00
Anthony Robinson	Official	P&R	\$ 600.00
Quenton Dorsay	Official	P&R	\$ 280.00
Anthony Robinson	Contract Extension-Date only	P&R	na

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Tonya Daye	Contract Extension-Date only	P&R	NA
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SUBJECT: BID REPORT - DECEMBER 2002

MOTION by Council Member Clement seconded by Council Member Edwards to approve and record in the minutes the following bids which were acted upon by the City Manager during the month of December 2002 was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

CITY OF DURHAM NORTH CAROLINA

February 13, 2003

MEMO TO: Marcia L. Conner, City Manager

THROUGH: Kenneth C. Pennoyer, Acting Finance Director

FROM: Joseph W. Clark, Purchasing Manager

SUBJECT: Bid Report

To approve and record in the minutes bids which were acted upon by the City Manager during the month of **December 2002**.

Apparatus, Supplies, Materials, Equipment, Construction and Repairwork:

1. **Bid: Solid Waste Blue Recycling Bins**

Purpose of Bid: To provide the Solid Waste Department with 3,000 Blue Recycling Bins

Comments: To purchase 3,000 blue recycling bins @ \$4.69 each

Opened: November 12, 2002

Bidders:	Busch System International	*\$14,070.00
	Barrie, Ontario Canada	
	Rehrig Pacific	\$18,390.00
	Lawrenceville, GA	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS

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CORPORATION STATISTICS

Total Workforce	11		# Black Males	0	0%
Total # Females	4	35%	# White Males	7	65%
Total # Males	7	65%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	4	35%
			# Other Females	0	0%
Performance Bond:	_____ Waived		_____ Not Waived	<u>X</u>	Not Required

The M/WBE Data Base was used in the solicitation of bids for this item.

2. Bid: One (1) Used Quad Cab Pickup Truck

Purpose of Bid: To purchase a Used Quad Cab Pickup Truck for the Organized Crime Division of the Police Department.

Comments:

Opened: December 2, 2002

Bidders:	Durham Auto Mart	* \$17,400.00
	Durham, NC	
	Elkins Motor Company, Inc.	\$17,900.00
	Durham, NC	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	6		# Black Males	1	17%
Total # Females	1	17%	# White Males	4	66%
Total # Males	5	83%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	1	17%
			# Other Females	0	0%

Performance Bond: _____ Waived _____ Not Waived X Not Required

The M/WBE Data Base was used in the solicitation of bids for this item.

3. Bid: Estimated Annual Requirements for Repair Clamps for Cast Iron and Ductile Pipe

Purpose of Bid: To provide the Public Works/Water & Sewer Maintenance Division with their annual usage of repair clamps for cast iron and ductile pipe.

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Comments:

Opened: December 16, 2002

Bidders: Miller Supply *\$16,863.35
Laurinburg, NC
Hughes Supply \$17,463.74
Raleigh, NC

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	9		# Black Males	1	10%
Total # Females	0	00%	# White Males	8	90%
Total # Males	9	100%	# Other Males	0	00%
			# Black Females	0	00%
			# White Females	0	00%
			# Other Females	0	00%

Performance Bond: ☐ Waived ☐ Not Waived ☒ Not Required

The M/WBE Data Base was used in the solicitation of bids for this item.

4. Bid: Estimated Annual Requirements for Ready Mixed Concrete and Related Items

Purpose of Bid: To provide City departments with their annual usage of ready mixed concrete and related items.

Comments: Bids were mailed to several vendors and only one response was received.

Opened: December 16, 2002

Bidders: Carolina Sunrock Corporation *\$49,500.00
Butner, NC

*Awarded based on: ☐ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	82		# Black Males	28	34%
Total # Females	10	12%	# White Males	39	48%
Total # Males	72	88%	# Other Males	05	06%

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# Black Females	00	00%
# White Females	09	11%
# Other Females	01	01%

Performance Bond: _____ Waived _____ Not Waived **X** Not Required

The M/WBE Data Base was used in the solicitation of bids for this item.

5. Bid: Miscellaneous Hurst Tools for the Fire Department

Purpose of Bid:

Comments: Hurst Tools are used to extricate individuals out of wrecked vehicles.

Opened: December 18, 2002

Bidders:	Newton's Fire & Safety, Inc.	* \$55,848.00
	Sweptonsville, NC	
	MDS Matrix Medical	\$56,200.00
	Ballentine, SC	

*Awarded based on: **X** Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	10		# Black Males	0	0%
Total # Females	1	10%	# White Males	9	90%
Total # Males	9	90%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	1	10%
			# Other Females	0	0%

Performance Bond: _____ Waived _____ Not Waived **X** Not Required

The M/WBE Data Base was used in the solicitation of bids for this item.

Sufficient funds were available at the time of the award. The Administration recommends acceptance of the above bids denoted by an asterisk (*).

JWC:lm

SUBJECT: BID REPORT - JANUARY 2003

MOTION by Council Member Clement seconded by Council Member Edwards to approve and record in the minutes the following bids which were acted upon by the City Manager during the month of January 2003 was approved at 7:07 p.m. by the following

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vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

CITY OF DURHAM NORTH CAROLINA

February 13, 2003

MEMO TO: Marcia L. Conner, City Manager

THROUGH: Kenneth C. Pennoyer, Acting Finance Director

FROM: Joseph W. Clark, Purchasing Manager

SUBJECT: Bid Report

To approve and record in the minutes bids which were acted upon by the City Manager during the month of **January 2003**.

Apparatus, Supplies, Materials, Equipment, Construction and Repairwork:

1. Bid: Agenda Automation Software System

Purpose of Bid: To provide the City with a system for automating the City Council agenda generation process.

Comments:

Opened: October 15, 2002

Bidders:	Information Access Systems, Inc.	*\$76,366.00
	Orlando, FL	
	Netsco, Inc.	\$185,197.00
	Morrisville, NC	
	Advanced Systems Design, Inc.	\$225,263.40
	Tallahassee, FL	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	11		# Black Males	0	0%
Total # Females	2	18%	# White Males	9	82%
Total # Males	9	82%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	2	18%
			# Other Females	0	0%

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Performance Bond: _____ Waived _____ Not Waived **X** Not Required

The M/WBE Data Base was used in the solicitation of bids for this item.

2. Bid: Police Department Uniforms

Purpose of Bid: To purchase uniforms for the police department

Comments:

Opened: December 20, 2002

Bidders:	Showfety's Inc.	*\$35,332.25
	Greensboro, NC	
	Century Uniform	\$35,701.75
	Raleigh, NC	
	American Uniform Sales	\$35,733.00
	Fayetteville, NC	

*Awarded based on: **X** Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	6		# Black Males	0	0%
Total # Females	3	50%	# White Males	3	50%
Total # Males	3	50%	# Other Males	0	0%
			# Black Females	1	16.67%
			# White Females	1	16.67%
			# Other Females	1	16.67%

Performance Bond: _____ Waived _____ Not Waived **X** Not Required

The M/WBE Data Base was used in the solicitation of bids for this item.

3. Bid: Smith & Wesson Guns

Purpose of Bid: To purchase 30 guns @ \$542.05 each for the Police Department

Comments:

Opened: January 3, 2003

Bidders:	Lawmen's Safety Supply	*\$16,261.50
	Raleigh, NC	
	Southern Public Safety Equipment Co.	\$17,396.10

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Greensboro, NC

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	23		# Black Males	0	0%
Total # Females	13	56%	# White Males	10	44%
Total # Males	10	44%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	13	56%
			# Other Females	0	0%

LOCATION OF PERFORMING CONTRACT
Raleigh, NC

Total Workforce	18		# Black Males	0	0%
Total # Females	10	56%	# White Males	8	44%
Total # Males	8	44%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	10	56%
			# Other Females	0	0%

Performance Bond: ☐ Waived ☐ Not Waived ☒ Not Required

The M/WBE Data Base was used in the solicitation of bids for this item.

Sufficient funds were available at the time of the award. The Administration recommends acceptance of the above bids denoted by an asterisk (*).

JWC:lm

**SUBJECT: BIDS - ESTIMATED TWO (2) YEARS REQUIREMENTS FOR ON
AND OFF ROAD DIESEL FUEL - PETROLEUM TRADERS
CORPORATION**

MOTION by Council Member Clement seconded by Council Member Edwards to accept the bid from Petroleum Traders Corporation in the amount of \$971,100.00 for furnishing the City with its Estimated Two (2) Years Requirements for On and Off Road Diesel Fuel; and

To authorize the City Manager to enter into a contract with Petroleum Traders Corporation in the amount of \$971,100.00 for providing the City with its Estimated Two (2) Years Requirements for On and Off Road Diesel Fuel; and

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To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: ON-STREET PARKING ORDINANCES

MOTION by Council Member Clement seconded by Council Member Edwards to adopt an ordinance to repeal the following was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

1. Ordinance #12212(a), adopted February 19, 2001, establishing one-hour parking on the south side of Main Street between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, in the area beginning at a point 47 feet west of the west curb line of Roxboro Street, if extended, and extending for a distance of 154 feet westward; and
2. Ordinance #12105(a), adopted November 6, 2000, establishing one-hour parking on the west side of Market Street between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, in the area beginning at a point 168 feet south of the south curb line of Chapel Hill Street, if extended, and extending for a distance of 69 feet southward.

Ordinance # 12767

MOTION by Council Member Clement seconded by Council Member Edwards to adopt an ordinance establishing one-hour parking between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, at the following locations was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

1. on the south side of Main Street in the area beginning at a point 47 feet west of the west curb line of Roxboro street, if extended, and extending for a distance of 44 feet westward; and
2. on the south side of Main Street in the area beginning at a point 113 feet west of the west curb line of Roxboro Street, if extended, and extending for a distance of 88 feet westward; and
3. on the west side of Market Street in the area beginning at a point 190 feet south of the south curb line of Chapel Hill Street, if extended, and extending for a distance of 45 feet southward.

Ordinance # 12768

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MOTION by Council Member Clement seconded by Council Member Edwards to adopt an ordinance establishing handicap parking at the following locations was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

1. on the south side of Main Street in the area beginning at a point 91 feet west of the west curb line of Roxboro Street, if extended, and extending for a distance of 22 feet westward; and
2. on the west side of Market Street in the area beginning at a point 168 feet south of the south curb line of Chapel Hill Street, if extended, and extended for a distance of 22 feet southward.

Ordinance # 12769

SUBJECT: SETTING A PUBLIC HEARING TO CONSIDER ORDERING PETITIONED IMPROVEMENT - CHICAGO STREET

MOTION by Council Member Clement seconded by Council Member Edwards to adopt a resolution setting a public hearing for April 7, 2003 for the following improvement: Curb, Gutter and Paving, Sewer Main and Water and Sewer Laterals on Chicago Street - From Collier Street North To South Property Line of Tax Map 405-1-17 was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: LICENSE AGREEMENT WITH SOUTHPOINT OWNERS ASSOCIATION, INC. INC., MIDLAND 751 DEVELOPMENT COMPANY, LLC, SOUTHPOINT INVESTORS, LLC, SOUTHPOINT DEVELOPER, LLC, LODGE AT SOUTHPOINT LP, AND RENAISSANCE PARKWAY, LLC

MOTION by Council Member Clement seconded by Council Member Edwards to authorize the City Manager to enter into a license agreement with Southpoint Owners Association, Inc., Midland 751 Development Company, LLC, Southpoint Investors, LLC, Southpoint Developer, LLC, Lodge at Southpoint LP, and Renaissance Parkway, LLC; and

To authorize the City Manager to make changes to the agreement before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the agreement was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

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**SUBJECT: UDI COMMUNITY DEVELOPMENT CORPORATION –
SUBRECIPIENT AGREEMENT**

MOTION by Council Member Clement seconded by Council Member Edwards to authorize the City Manager to execute a Subrecipient Agreement with UDI Community Development Corporation to receive a grant of \$50,000 in Community Development Block Grant funds to help offset the operational cost of the Small Business Center; and

To authorize the City Manager to make minor changes to the Agreement as long as the changes do not increase the dollar amount and remain consistent with the general intent of the Agreement was approved at 7:07 p.m. by the following vote: Ayes: Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Abstention: Mayor Bell. Absent: None.

**SUBJECT: AMENDMENT TO THE CITY OF DURHAM AFFORDABLE
HOUSING MORTGAGE LOAN PROGRAM ORIGINATION AND
SERVICING AGREEMENT - CENTRAL CAROLINA BANK
(CCB)**

MOTION by Council Member Clement seconded by Council Member Edwards to authorize the City Manager to execute an amendment to the City of Durham's Affordable Housing Mortgage Loan Program Origination and Servicing Agreements with Central Carolina Bank and extending the term of the Agreements until December 31, 2003; and

To authorize the City Manager to make minor changes to the Agreements long as the changes do not increase the dollar amount and remain consistent with the general intent of the Agreements was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: BARNES AVENUE UPDATE

MOTION by Council Member Clement seconded by Council Member Edwards to receive a presentation on the Barnes Avenue redevelopment was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: CONTRACT FOR AUTOMATED AGENDA SYSTEM –
INFORMATION ACCESS SYSTEMS, INC.**

MOTION by Council Member Clement seconded by Council Member Edwards to authorize the City Manager to execute the Contract with Information Access Systems, Inc. to purchase hardware, software, maintenance and services in the amount of \$76,366; and

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To authorize the City Manager to make changes to the contract before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contract was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: BARRY STANBACK - OAKLEIGH SUBSTANCE ABUSE FACILITY

MOTION by Council Member Clement seconded by Council Member Edwards to receive comments from Barry Stanback requesting Council's support for the reopening of the Oakleigh Substance Abuse Facility was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: DONALD FOZARD, SR. – REIMBURSEMENT OF MONIES

MOTION by Council Member Clement seconded by Council Member Edwards to receive comments from Donald Fozard, Sr. on reimbursement of monies for replacement of handicap ramp was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: CONTRACT FOR ENVIRONMENTAL PHASE II ASSESSMENT -
509 BARNES AVENUE - ECS LIMITED**

To authorize the City Manager to execute a contract with ECS Limited in the amount of \$10,000 to provide an environmental phase II assessment of 509 Barnes Avenue; and

To authorize the City Manager to make changes to the contract before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contract.

This item was voted on at the 3/6/03 work session and passed with a vote of 6-0.

SUBJECT: JACK PREISS

To receive comments from Jack Preiss on a citizen matter.

This citizen did not appear at the 3/6/03 work session.

**SUBJECT: DURHAM ALIVE! - 2003 CONCERT SERIES CONTRACT -
DOWNTOWN DURHAM, INC.**

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To authorize the City Manager to execute a contract with Downtown Durham, Inc., in the amount of \$4,000 to produce the Durham Alive 2003 Concert Series; and

To authorize the City Manager to make changes to the contract before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contract.

This item was voted on at the 3/6/03 work session and passed with a vote of 6-0.

SUBJECT: TRANSAMERICA COMMERCIAL BROKERAGE –LONG TERM CARE INSURANCE SERVICES CONTRACT

To authorize the City Manager to execute a contract with TransAmerica Commercial Brokerage for long term care insurance services; and

To authorize the City Manager to make changes to the contract before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contract.

This item was voted on at the 3/6/03 work session and passed with a vote of 6-0.

SUBJECT: REQUEST FOR RATE INCREASE BY PUBLIC SERVICE GAS COMPANY

To adopt a Resolution Expressing Concern Regarding Rates Increases Requested by Public Service Gas Company of North Carolina.

*This item was voted on at the 3/6/03 work session and passed with a vote of 6-0.
Resolution #8974*

[ITEMS PULLED FROM CONSENT AGENDA]

**SUBJECT: ARCHITECTURAL SELECTION FOR FIRE STATION 8
LOCATED IN GROVE PARK AND FIRE STATION 16 LOCATED
ON FARRINGTON ROAD – FREELON GROUP, INCORPORATED**

Mayor Pro Tempore Cheek asked staff a question that was answered regarding the difference in the architectural fees between fire stations.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Clement to authorize the City Manager to execute a contract with the Freelon Group, Incorporated in the amount of \$55,000.00 for architectural services and associated geotechnical testing and engineering fees for Fire Station #8 to be located in the Grove Park area; and

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To authorize the City Manager to execute a contract with the Freelon Group, Incorporated in the amount of \$34,200.00 for architectural services and associated geotechnical testing and engineering fees for Fire Station #16 to be located on Farrington Road; and

To establish contingency funds for Fire Station #8 in the amount of \$5,500.00 and for Fire Station #16 in the amount of \$3,420.00; and

To authorize the City Manager to modify the contracts before execution provided that modifications do not increase the dollar amounts of the contracts and the modifications are consistent with the general intent of the existing version of the contracts; and

To authorize the City Manager to negotiate and execute change orders on Fire Station #8 and Fire Station #16 provided that the cost of all change orders do not exceed \$8,920.00 and the total project cost does not exceed \$98,120.00 was approved at 7:08 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: FOLLOWUP TO NECD AUDIT (NORTHEAST CENTRAL DURHAM)

To receive follow-up information regarding the NECD Audit.

Keith Bishop, Attorney for NECD, noted organization will have its Annual Meeting in April to re-elect new board members and to adopt by-law changes to enable the organization to operate in a transparent manner.

LaVonnia Allison, of 1315 McLaurin Avenue, noted if there are problems with fiscal management the whole organization should not be destroyed but guidelines put in place as recommended by Council and periodic orientation sessions.

Vivian McCoy, of NECD Board, provided the Mayor with a proposal for restructuring NECD. Also, she invited Council to attend their Board Meeting on April 9.

MOTION by Council Member Clement seconded by Council Member Stith to receive follow-up information regarding the NECD Audit was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

MOTION by Council Member Clement seconded by Council Member Stith to receive a report from the Northeast Central Durham (NECD) Subcommittee [Mayor Pro Tempore Cheek, Council Members Clement and Cole-McFadden] at the April 10, 2003 City Council Work Session on the question of continued funding for NECD was approved at 7:21 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

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**SUBJECT: HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT
REORGANIZATION JOB DESCRIPTIONS**

Council Member Cole-McFadden asked staff a question that was answered concerning Weed and Seed positions.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to amend the Compensation and Classification Plan was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

At this time during the meeting, the City Manager requested that Resolution Authorizing the City Manager to Enter into Contracts in Consideration of Foreign Conflict be added to the agenda.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to add item to the agenda [Resolution Authorizing the City Manager to Enter into Contracts in Consideration of Foreign Conflict] was approved at 7:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

[ITEM ADDED TO AGENDA]

**SUBJECT: RESOLUTION AUTHORIZING THE CITY MANAGER TO
ENTER INTO CONTRACTS IN CONSIDERATION OF FOREIGN
CONFLICT**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt a Resolution Authorizing the City Manager to Enter into Contracts in Consideration of Foreign Conflict was approved at 7:25 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Resolution #8980

[GENERAL BUSINESS AGENDA]

**SUBJECT: PROPOSED REFUNDING OF 1992, 1993 AND 1995 GENERAL
OBLIGATION BONDS**

To adopt a Resolution Making Certain Findings Relating To The Authorization And Issuance Of General Obligation Refunding Bonds Of The City Of Durham, North Carolina, And Ratifying Actions Of Finance Officer In Filing Application For Approval Thereof With Local Government Commission And Related Matters; and

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To adopt a Resolution Calling A Public Hearing Upon An Order Authorizing Not Exceeding \$51,000,000 Refunding Bonds of the City of Durham, North Carolina.

The public hearing is scheduled for April 7th, 2003 at 7:00 PM in the Council Chamber.

Mayor Bell introduced resolution making certain findings related to the authorization and issuance of general obligation refunding bonds of the City Of Durham, North Carolina, and ratifying actions of finance officer in filing application for approval thereof with Local Government Commission and related matters.

Acting Finance Director Ken Pennoyer summarized resolution noting this resolution authorizes \$51,000,000 of refunded bonds including the 1992 Public Improvement Bonds, 1992 Refunding Bonds, 1993 Refunding Bonds and 1995 Public Improvement Bonds. He noted bonds are necessary, no tax increase will be needed to fund debt service, there will be a filing of an application with LGC and selection of financing team.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt a Resolution Making Certain Findings Relating To The Authorization And Issuance Of General Obligation Refunding Bonds Of The City Of Durham, North Carolina, And Ratifying Actions Of Finance Officer In Filing Application For Approval Thereof With Local Government Commission And Related Matters was approved at 7:27 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Resolution #

Mayor Bell introduced bond order authorizing \$51,000,000 refunding bonds.

Acting Finance Director Ken Pennoyer gave a summary of the bond order noting it authorizes the refunding bonds as described earlier and it designates the Finance Officer as the City official who will file a sworn statement of debt with the City Clerk in the presence of the City Council.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt an order Authorizing \$51,000,000 Refunding Bonds was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

ORDER AUTHORIZING \$51,000,000 REFUNDING BONDS

BE IT ORDERED by the City Council of the City of Durham:

1. That, pursuant to The Local Government Bond Act, as amended, the City of Durham, North Carolina, is hereby authorized to contract a debt, in addition to any and all other debt which said City may now or hereafter have power or authority to contract, and in evidence thereof to issue Refunding Bonds in an aggregate principal amount not exceeding \$51,000,000 for the purpose of providing funds, together with any other available funds, for refunding all or any portion of the City's outstanding Public

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Improvement Bonds, Series 1992, Refunding Bonds, Series 1992, Refunding Bonds, Series 1993 and Public Improvement Bonds, Series 1995, including the payment of expenses related thereto.

2. That taxes shall be levied in an amount sufficient to pay the principal of and the interest on said bonds.
3. That a sworn statement of the debt of said City has been filed with the City Clerk and is open to public inspection.
4. That this order shall take effect upon its adoption.

Acting Finance Director Ken Pennoyer filed the sworn statement of debt with the City Clerk.

Mayor Bell introduced resolution calling a public hearing upon an order authorizing not exceeding \$51,000,000 refunding bonds of the City of Durham, North Carolina.

Acting Finance Director Ken Pennoyer noted the resolution calls for a public hearing for the previously described refunding bonds on April 7, 2003 at 7:00 p.m.

Mayor Bell opened the public hearing and no one spoke in support or against this item. The Mayor declared the public hearing closed.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt Resolution Calling a Public Hearing Upon an Order Authorizing Not Exceeding \$51,000,000 Refunding Bonds of the City of Durham, North Carolina was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Resolution #

SUBJECT: TROSA REQUEST FOR EXPEDITED APPROVAL

Melvin Whitely, of 2614 Harvard Avenue, spoke in opposition to this item noting that Y. E. Smith Homeowners Association voted unanimously to oppose TROSA's request for an expedited hearing.

Vivian McCoy, of P. O. Box 11751, spoke in opposition to this item stating the neighborhood needs to be cleaned out before anything is put in the old Y. E. Smith School.

LaVonnia Allison, of 1315 McLaurin Avenue, spoke in opposition urging Council to deny this item until TROSA appears before the Planning Commission.

Jim Yamin, representing TROSA, spoke in support of this item asking Council to approve this request to allow them an opportunity to have dialogue with the community.

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Frank Duke, City/County Planning Director, noted this is a request to grant TROSA expedited status. He noted there is no land use plan amendment associated with this request or TIA required and request does meet criteria b of section 15.2.4 of the zoning ordinance.

Council Member Cole-McFadden spoke in opposition to this matter noting there has been a lack of communication between TROSA and residents, a lack of specificity and expressed concern of senior citizens living in an area infested with drug traffic.

Council Member Clement and Mayor Pro Tempore Cheek spoke in support of this item.

Council Member Edwards expressed concern with this item noting the City needs more affordable housing and homeownership in this community.

Mayor Bell indicated that he will be voting against this item because he does not see the value in having an expedited hearing.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cheek to expedite the hearing upon determination that the request meets on of more of the specified criteria from section 15.2.4 of the City Zoning Ordinance was approved at 7:55 p.m. by the following vote: Ayes: Mayor Pro Tempore Cheek and Council Members Best, Clement and Stith. Noes: Mayor Bell and Council Members Cole-McFadden and Edwards. Absent: None.

SUBJECT: CITY-COUNTY INTERLOCAL AGREEMENT FOR PLANNING DEPARTMENT

To adopt the City-County Interlocal Cooperation Agreement for Planning Department.

Frank Duke, City/County Planning Director, noted the Board of County Commissioners asked that this item be referred to the Board of Adjustment to review the section of the Interlocal Agreement dealing with the Board and that Council not take any action on this item until review has been completed. Also, Mr. Duke noted this item will come back to Council in April.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to remove this item from the agenda and refer it back to the administration was approved at 7:56 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: AGREEMENT TO CONDENM PORTIONS OF PROPERTY OF TWOL ACQUISITION COMPANY, INC. ON BEHALF OF THE HOUSING AUTHORITY OF THE CITY OF DURHAM – PARCEL I.D. 554-02-010, PIN #0739-03-14-8612

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- (1) To find that it is necessary, in the public interest, and for the public use and benefit to condemn the following interests in the property identified as Tax Map 554-02-010, also known as PIN #0739-03-14-8612, and owned by T-WOL Acquisition Company, Inc.: (i) a sewer easement of approximately 3,402 sq. ft.; (ii) a permanent drainage easement of approximately 801 sq. ft.; and (iii) a fee simple in approximately 1,399 sq. ft., with the locations of those three parcels shown on the map entitled “Final Plat Easements and Right of Way Needed For Acquisition Not For Dedication Surveyed For Housing Authority of the City of Durham,” prepared by William H. McCarthy, RLS, map dated April 18, 2002; and
- (2) To authorize the selection of an attorney that is acceptable to the Housing Authority and the City to initiate condemnation proceedings for that purpose, with deposits into court of \$1,973 for the sewer easement, \$461 for the permanent drainage easement, and \$1,500 for the fee simple interest as the City’s estimate of just compensation; and
- (3) To authorize the Housing Authority to settle the condemnation action(s) by payment from its funds of whatever additional sum(s) that the Housing Authority finds to be satisfactory on terms and conditions acceptable to the Housing Authority and the City Manager in consultation with the City Attorney, provided all monies are paid by the Housing Authority; and
- (4) To authorize the City Manager to execute the Agreement between the Housing Authority and the City of Durham on Payment of Eminent Domain Expenses and to make changes to such Agreement, provided such changes are consistent with the general intent of the agenda memo.

Sandra Harper, of the Real Estate Division, noted this item is at the request of the Durham Housing Authority to obtain a sewer easement, right-of-way and permanent drainage easement for a culvert across TWOL’s property. Also, she stated Laurel Oaks has been built—98% complete and the Housing Authority cannot receive CO until they obtain the property from T-WOL. She made comments regarding eminent domain, quick take option which is not available to the Housing Authority. Further, she noted the Housing Authority is asking the City Council to acquire property and condemn it on their behalf. Also, she briefed Council on the history of the easement.

The following individuals spoke in support of this item: Sherrod Banks, Tonya Locklair, Frank Meachem, Gwen Simpson, Deborah Royster and James Tabron.

The following individuals spoke in opposition to this matter: Hal Harris, Liz Willis, Joe Bowser, Rev. Charle Smith, Fred Foster, Melvin Whitley, Jermaine Harris, Mary Lou Harrell, David Franklin Carmona, LaVonia Allison, Annie King, Fred White, Thelma White, Spurgeon Thurston, James Pointer, Rudolph H. Clark, Sr., Raphael Thompson and Walter Brown.

Council held discussion on process, authority for taking easement and eminent domain.

Several members of Council spoke in opposition to this item.

Council Member Clement spoke in support of this matter.

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A motion was made by Council Member Clement to refer this item to the April 10, 2003 City Council Work Session. Motion dies for a lack of a second.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to find that it is necessary, in the public interest, and for the public use and benefit to condemn the following interests in the property identified as Tax Map 554-02-010, also known as PIN #0739-03-14-8612, and owned by T-WOL Acquisition Company, Inc.: (i) a sewer easement of approximately 3,402 sq. ft.; (ii) a permanent drainage easement of approximately 801 sq. ft.; and (iii) a fee simple in approximately 1,399 sq. ft., with the locations of those three parcels shown on the map entitled "Final Plat Easements and Right of Way Needed For Acquisition Not For Dedication Surveyed For Housing Authority of the City of Durham," prepared by William H. McCarthy, RLS, map dated April 18, 2002; and

To authorize the selection of an attorney that is acceptable to the Housing Authority and the City to initiate condemnation proceedings for that purpose, with deposits into court of \$1,973 for the sewer easement, \$461 for the permanent drainage easement, and \$1,500 for the fee simple interest as the City's estimate of just compensation; and

To authorize the Housing Authority to settle the condemnation action(s) by payment from its funds of whatever additional sum(s) that the Housing Authority finds to be satisfactory on terms and conditions acceptable to the Housing Authority and the City Manager in consultation with the City Attorney, provided all monies are paid by the Housing Authority; and

To authorize the City Manager to execute the Agreement between the Housing Authority and the City of Durham on Payment of Eminent Domain Expenses and to make changes to such Agreement, provided such changes are consistent with the general intent of the agenda memo **FAILED** at 9:16 p.m. by the following vote: Ayes: Council Member Clement. Noes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Cole-McFadden, Edwards and Stith. Absent: None.

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

SUBJECT: MAJOR SPECIAL USE PERMIT CASE M02-06- ROGERS-HERR MIDDLE SCHOOL ADDITIONS AND RENOVATIONS

To hold a quasi-judicial hearing to consider a Major Special Use Permit for an expansion of Rogers-Herr Middle School in the R-10 District, and

To direct the Planning Director to prepare an order for adoption, for 1) approval, 2) approval with conditions or 3) denial, or to continue the hearing to a specified later meeting. (A draft order for approval with staff-recommended conditions will be available at the meeting.)

Durham Public Schools has submitted a Major Special Use Permit request for a 48,238 square foot addition and renovations to the existing 74,909 square foot Rogers-Herr

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Middle School. The expanded facility would allow removal of 8 existing mobile classrooms, and provide for a new choral, art and band classroom addition and for improved ballfields. Enrollment would remain at 650 students. Increased parking provision for after-school and athletic programs is also proposed.

City Clerk D. Ann Gray swore in the following individuals: Frank Duke, Steve Medlin, Hugh Osteem and Jim Chandler.

Mayor Bell explained the proceedings for a major special use permit hearing.

The Mayor asked Council to reveal any possible conflicts and to withdraw from this hearing if necessary. Also, Mayor Bell asked if any Council Member had been exposed to any evidence or information that may not come out at the hearing tonight.

Mayor Bell opened the public hearing.

Testimony from Staff

Steve Medlin, of the City/County Planning Department, briefed the Council on the staff report making comments on the expansion to existing school highlighting that the project includes two new classroom buildings, improvements to athletic fields and the addition of one multi-purpose building. He noted all existing classroom trailers are to be removed from the site at the end of Phase I construction. He requested the staff report, all attachments and exhibits be admitted as evidence. He stated staff is recommending approval of the major special use permit subject to the project be completed in accordance with the approved site plan.

The Mayor asked if there were questions for staff. There were no questions.

Testimony from Applicant

Hugh Osteem, representing Durham Public Schools, spoke in support of this item noting that DPS seeks approval for a major special use permit for Rogers-Herr Middle School for additions and renovations. He noted project will enhance the site and improve safety, and landscaping issues. He urged Council to approve this request.

The Mayor asked if there were any questions. There were no questions.

City Attorney Blinder asked staff if staff report should be submitted as evidence and are there any objections.

The staff report was submitted as evidence and there were no objections.

Staff Recommendation

Steve Medlin, of the City/County Planning Department, noted staff recommends adopting order granting, upon certain conditions, a major special use permit for Durham Public Schools subject to project being completed in accordance with the approved site plan.

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MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt order granting, upon certain conditions, a major special use permit for Durham Public Schools Case M02-06 subject to project being completed in accordance with the approved site plan was approved at 9:27 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Ordinance #12770

SUBJECT: MAJOR SITE PLAN - ROGERS-HERR MIDDLE SCHOOL ADDITIONS AND RENOVATIONS (D02-527)

MOTION by Council Member Clement seconded by Council Member Edwards to approve a major site plan, submitted by CLH Design, PA, on behalf of Durham Public Schools, consisting of 48,238 square feet in additions and renovations to an existing 74,909 square foot middle school on 23.26 acres, zoned R-10, located on the south side of Cornwallis Road, west of Hope Valley Road, east of Old Chapel Hill Road, and north of Monroe Avenue and Arnold Road. (Tax map 242-01-030)(PIN 0810-08-98-3876), City Atlas: Page 28, Section D-2 was approved at 9:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: REZONING MATTER CASE P02-71- SUZUKI OF DURHAM - TOYOTA OF DURHAM - 4512 DURHAM-CHAPEL HILL BOULEVARD

To receive public comment on rezoning Case P02-71 (Suzuki of Durham); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P02-71 out of NC and placing same in and establishing same as GC(D).

Planning Department Recommendation: Approval

Zoning Committee Recommendation and Vote: Approval - (7-0)

Frank Duke, City/County Planning Director, briefed Council on the staff report.

Mayor Bell opened the public hearing.

Proponent

Randy King, representing the applicant, spoke in support of this rezoning case.

No one spoke in opposition to this rezoning request.

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Mayor Bell declared the public hearing closed.

MOTION Council Member Stith seconded by Mayor Pro Tempore Cheek to receive public comment on rezoning Case P02-71 (Suzuki of Durham); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P02-71 out of NC and placing same in and establishing same as GC(D) was approved at 9:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: REZONING MATTER CASE P02 – HISTORIC PRESERVATION SOCIETY OF DURHAM – COUNTY OF DURHAM – ON THE NORTH SIDE OF LAWNDALE AVENUE BETWEEN GOLF STREET AND HILLSBOROUGH ROAD

To receive public comment on rezoning Case P02-61 (Historic Preservation Society of Durham); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P02-61 out of GC, OI-2 and placing same in and establishing same as R-5.

Planning Department Recommendation: Approval

Zoning Committee Recommendation and Vote: Approval - (7-0)

Frank Duke, City/County Planning Director, briefed Council on the staff report.

Mayor Bell opened the public hearing.

Proponent

John Schelp, of 1022 Rosehill Avenue, spoke in support of this rezoning urging Council to approve request.

No one spoke in opposition to this rezoning.

Mayor Bell declared the public hearing closed.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive public comment on rezoning Case P02-61 (Historic Preservation Society of Durham); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P02-61 out of GC,

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OI-2 and placing same in and establishing same as R-5 was approved at 9:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: SEWER MAIN ON LEAH LANE FROM NORTH PROPERTY LINE OF TAX MAP 773-3-1 TO MARYWOOD DRIVE AND MARYWOOD DRIVE FROM LEAH LANE TO NORTH PROPERTY LINE OF TAX MAP 773-5-9 - MINI ASSESSMENT ROLL

a. Property of Dewitt C. and Mary Olive Woodall, Jr.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to find that the property of Dewitt C. and Mary Olive Woodall, Jr., identified as Tax Map 773-3-5, 3040 Marywood Drive, has benefited from the sewer main improvement and to confirm the assessment in the amount of \$3,910.20 (partial relief granted in accordance with City Policy) was approved at 9:35 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

b. Property of Marywood – A Limited Partnership

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to reconsider the assessment against the property of Marywood – A Limited Partnership; and

To find that the property of Marywood – A Limited Partnership, identified as Tax Map 773-4-1, 3110 Marywood Drive, has benefited from the sewer main improvement and to confirm the assessment in the amount of \$4,236.05 (partial relief granted in accordance with City Policy) was approved at 9:35 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

c. Property of Marywood – A Limited Partnership

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

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MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to reconsider the assessment against the property of Marywood – A Limited Partnership; and

To find that the property of Marywood – A Limited Partnership, identified as Tax Map 773-1-11, 3031 Marywood Drive, has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$4,896.68 was approved at 9:35 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

d. Property of Margaret E. Duncan-Brown and Patrick T. Brown

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to find that the property of Margaret E. Duncan-Brown and Patrick T. Brown, identified as Tax Map 773-1-14, 3049 Marywood Drive, has benefited from the sewer main improvement and to confirm the assessment in the amount of \$1,360.63 (partial relief granted in accordance with City Policy) was approved at 9:35 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: SEWER MAIN ON MARYWOOD DRIVE FROM NORTH PROPERTY LINE OF TAX MAP 773-5-9 TO PARK PLACE AND PARK PLACE FROM MARYWOOD DRIVE TO END OF CUL-DE-SAC - MINI ASSESSMENT ROLL

Due to objections, Lee Murphy, of the Public Works Department, requested that Council confirm assessment roll except for the property of John A. and Jan S. Hallenborg and to continue the public hearing for that assessment without further advertising and to refer the property of John A. and Jan S. Hallenborg to the April 10, 2003 City Council Work Session.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no further objections and/or allegations, the public hearing was declared closed.

a. Property of John A. and Jan S. Hallenborg

To find that the property of John A. and Jan S. Hallenborg, identified as Tax Map 773-5-11, 9 Park Place, has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$3,410.32.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to continue the public hearing without further advertising and to refer the property of John A. and Jan

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S. Hallenborg to the April 10, 2003 City Council Work Session for further consideration was approved at 9:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

b. Property of Vernon G. and Deborah G. Pratt

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to find that the property of Vernon G. and Deborah G. Pratt, identified as Tax Map 773-4-8, 3300 Marywood Drive, has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$4,230.00 was approved at 9:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: SEWER MAIN ON MARYWOOD DRIVE FROM LEAH LANE TO ROSE OF SHARON ROAD AND ROSE OF SHARON ROAD FROM MARYWOOD DRIVE SOUTH TO SOUTH PROPERTY LINE OF TAX MAP 773-1-7 – MINI ASSESSMENT ROLL

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

a. Property of Gregory K. and Martha S. Schulwitz

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cheek to find that the property of Gregory K. and Martha S. Schulwitz, identified as Tax Map 773-2-2, 3006 Marywood Drive, Rose of Sharon Road side, has benefited from the sewer main improvement and to confirm the assessment in the amount of \$1,792.35 (partial relief granted in accordance with City Policy) was approved at 9:37 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

b. Property of Towercomm, Inc.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cheek to find that the property of Towercomm, Inc., identified as Tax Map 773-1-7, Rose of Sharon Road, has not benefited from the sewer main improvement at this time and to relieve the assessment in the amount of \$5,405.00 with the provision that a future frontage charge will be due and payable at the prevailing rate should the property connect to the sewer service (in accordance with City Policy) was approved at 9:37 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

c. Property of Joseph J. and Catherine A. Simmons

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MOTION by Council Member Clement seconded by Mayor Pro Tempore Cheek to reconsider the assessment against the property of Joseph J. and Catherine A. Simmons; and

To find that the property of Joseph J. and Catherine A. Simmons, identified as Tax Map 773-1-8, 3001 Marywood Drive, Rose of Sharon Road side, has benefited from the sewer main improvement and to confirm the assessment in the amount of \$1,673.44 (partial relief granted in accordance with City Policy) was approved at 9:37 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

d. Property of Minnie G. Garrard

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cheek to reconsider the assessment against the property of Minnie G. Garrard; and

To find that the property of Minnie G. Garrard, identified as Tax Map 772-1-3, Rose of Sharon Road, has not benefited from the sewer main improvement at this time and to relieve the assessment in the amount of \$13,771.00 with the provision that a future frontage charge will be due and payable at the prevailing rate should the property connect to the sewer service (in accordance with City Policy) was approved at 9:37 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

[SUPPLEMENTAL AGENDA]

SUBJECT: LETTER AND RESOLUTION SUPPORTING HOUSE BILL 16

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Edwards to send a letter of support for House Bill 16 - ABC Permits in State Development Zones, to the Representative Hall, Chair of the ABC Committee, in order to request that the bill be heard before the committee; and

To adopt a Resolution Supporting House Bill 16 - ABC Permits in State Development Zones was approved at 9:37 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Resolution #8978

Note: This will be an addition to the Legislative Program.

SUBJECT: CITY OF DURHAM 150TH ANNIVERSARY RESOLUTION

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt a Resolution Celebrating the City of Durham's 150th Anniversary was approved at 9:37 p.m.

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by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Resolution #8979

There being no further business to come before the City Council, the meeting was adjourned at 9:37 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk